

REMARKS

Claim Rejections - 35 U.S.C. §103

Claims 1 and 9 are rejected under 35 USC §103(a) as being unpatentable over Applicant's Admitted Prior Art in view of Kumada (U.S. Patent No. 6,584,608).

Claims 7-8, and 15-16 are rejected under 35 USC §103(a) as being unpatentable over Applicant's Admitted Prior Art in view of Kumada (U.S. Patent No. 6,584,608), and further in view of Chen (U.S. Patent No. 6,399,486).

MPEP 706.02(a) has specifically stated that:

“references that are only prior art under 35 U.S.C. 102(e), (f), or (g) and applied in a rejection under 35 U.S.C. 103(a) are subject to being disqualified under 35 U.S.C. 103(c) if the reference and the application were commonly owned, or subject to an obligation of common assignment, at the time the invention was made.< For 35 U.S.C. 102(a) to apply, the reference must have a publication date earlier in time than the effective filing date of the application, and must not be applicant's own work.”

In the instant application, the earliest priority date is asserted to be October 4, 2001 and an actual U.S. filing date to be March 18, 2002.

The prior art asserted to support the 35 U.S.C. 103(a) rejection is Kumada et al. having an earliest priority date of October 7, 1997 and an U.S. application date of April 9, 1998. Kumada et al. is patented on June 24, 2003. As can be readily verified, Kumada et al. and the present application all have a common assignee Fujitsu Limited.

As the asserted prior art reference Kumada et al. and the present application were

commonly owned, or subject to an obligation of common assignment, at the time the present invention was made, the asserted prior art reference is subject to being disqualified under 35 U.S.C. 103(c).

Therefore, this rejection is statutorily disqualified by acts of Congress as well as by the U.S. Patent and Trademark Office as stipulated in MPEP 706.02(a).

Therefore, this rejection is statutorily disqualified by acts of Congress as well as by the U.S. Patent and Trademark Office as stipulated in MPEP 706.02(a). Enclosed herewith is a declaration to establish common ownership between the asserted prior art and the claimed invention. This declaration is prepared in compliance with MPEP 706.02(l)(2)(II).

Reconsideration and withdrawal of this rejection are respectfully requested.

Claims 2-6, and 10-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The indication of allowable subject matter in claims 2-6 and 10-14 is noted with appreciation. Given that the prior art Kumada et al. is disqualified as a valid prior art, it is believed all claims are now placed in condition for allowance.

CONCLUSION

In view of the aforementioned amendments and accompanying remarks, all pending claims are believed to be in condition for allowance, which action, at an early date, is requested.

In the event that this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 50-2866.

Respectfully Submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP

A handwritten signature in black ink, appearing to read "Michael Lau", written in a cursive style.

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